IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6345 OF 2004

1. Shri Anil Krishnrao Koshti

and ors. .. Petitioners

Vs

1. Smt Mala Sayajirao Chavan and ors Respondents

Ms Surekha G Jangam, for the petitioners.

CORAM : D.B.BHOSALE,J.

DATE : 1st November, 2004.

PC:

1. Heard the learned counsel for the petitioner.

2. The petitioner’s application under Order VI, Rule 17 of the Code of Civil Procedure,1908, has been rejected on the ground that it was filed at the stage of final argument. By way of amendment, the petitioners sought to add one more party as defendant in the suit contending that the lease deed executed between the said third party and the defendant is not binding on the plaintiff. The trial Court has rejected the application by order dated 17.3.2004 by making following observations :

"If such a document is allowed, at this late

> stage, it will amount to start the suit from first stage of issuing summons. There is no question of curtailing multiplicity of litigations. The plaintiff is supposed to file the separate suit in respect of that lease deed in Court of Civil Judge, S.D Pune. Therefore, I am not convinced with the arguments of learned Advocate Smt. Sheela Adyanthaya. Apart from it, the proposed amendment in the prayer clause is definitely going to change the nature of the suit, therefore, in the present suit at the time of final arguments, it is not necessary for this Court to allow the said amendment, hence, by answering the point in question accordingly."

3. The Judgment relied on by Ms.Jangam, learned counsel for the petitioner, in Nichhalbhai Vallabhai and ors Vs. Jaswantlal Zinabhai and ors, AIR 1966 Supreme Court 997 would not apply to the facts of the present case. To my mind, the trial Court has rightly rejected the application for the reasons recorded in the impugned order. I find no reason to exercise extremely limited jurisdiction under Article 227 of the Constitution of India to interfere with the order impugned in the present petition. The writ petition, therefore, fails and is dismissed as such.

(D.B.BHOSALE, J.)